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3 **DECISION AND ORDER**
4 **OF THE**
5 **BOARD OF PSYCHOLOGY**

6
7 **DEPARTMENT OF CONSUMER AFFAIRS**

8
9 The attached Stipulated Settlement in case number W276, is hereby adopted as the
10 Decision and Order of the Board of Psychology, Department of Consumer Affairs. An effective
11 date of September 1, 2005 has been assigned to this Decision and Order.

12
13 Made this 2nd day of August, 2005.

14
15 Jacqueline B. Horn, Ph.D.
16 Jacqueline B. Horn, Ph.D.
17 President, Board of Psychology
18 Department of Consumer Affairs
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22
23
24

25 ??????????(respondent's name)

1 BILL LOCKYER, Attorney General
of the State of California
2 KERRY WEISEL, State Bar No. 127522
Deputy Attorney General
3 California Department of Justice
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6 Attorneys for Complainant
7
8

9 **BEFORE THE**
BOARD OF PSYCHOLOGY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. W276

12 PATRICIA E. McKEON, Ph.D.
13 860 Congress Avenue
Pacific Grove, California 93950

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

14 Psychologist's License Number PSY 10152
15

Respondent.
16

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings, that the following matters are true:

19 1. Complainant Thomas P. O'Connor brought this action solely in his official
20 capacity as the Executive Officer of the California Board of Psychology ("Board of Psychology"
21 or "board"). Complainant is represented in this matter by Bill Lockyer, Attorney General of the
22 State of California, by Kerry Weisel, Deputy Attorney General.

23 2. Respondent Patricia E. McKeon, Ph.D. ("respondent") is represented in
24 this proceeding by attorney John L. Fleer.

25 3. On July 16, 1987, the Board of Psychology issued Psychologist's License
26 No. PSY 10152 to Patricia E. McKeon, Ph.D. Unless renewed, the license will expire on June
27 30, 2005.

28 //

1 4. The Board of Psychology filed an Accusation in case No. W276 on April
2 29, 2004. A copy of the Accusation is attached as Exhibit A and incorporated by reference in
3 this stipulation.

4 5. Respondent has carefully read, fully discussed with counsel, and
5 understands the charges and allegations in the Accusation. Respondent also has carefully read
6 this Stipulated Settlement and Disciplinary Order, has fully discussed it with counsel, and
7 understands its effects.

8 6. Respondent is fully aware of her legal rights in this matter, including the
9 right to a hearing on the charges and allegations in the Accusation, the right to be represented by
10 counsel at her own expense, the right to confront and cross-examine the witnesses against her,
11 the right to present evidence and to testify on her own behalf, the right to the issuance of
12 subpoenas to compel the attendance of witnesses and the production of documents, the right to
13 reconsideration and court review of an adverse decision, and all other rights accorded by the
14 California Administrative Procedure Act and other applicable laws.

15 7. For purposes of this stipulation, respondent voluntarily, knowingly, and
16 intelligently waives and gives up each and every right set forth above.

17 8. Respondent agrees that her Psychologist's License is subject to discipline
18 and she agrees to be bound by the board's imposition of discipline as set forth in the Disciplinary
19 Order below.

20 9. For the purpose of resolving Case No. W276, respondent admits to all
21 causes for discipline contained in the Accusation.

22 10. All admissions and recitals contained in this stipulation are made solely
23 for the purpose of settlement in this proceeding and for any other proceedings in which the
24 California Board of Psychology or other professional licensing agency is involved, and shall not
25 be admissible in any criminal or civil proceedings.

26 11. This stipulation shall be subject to the approval of the Board of
27 Psychology. Respondent understands and agrees that board's staff and counsel for complainant
28 may communicate directly with the board regarding this stipulation without notice to or

1 participation by respondent or her counsel. If the board fails to adopt this stipulation as its
2 Disciplinary Order, the Stipulated Settlement and Disciplinary Order, except for this paragraph,
3 shall be of no force or effect. The Stipulated Settlement and Disciplinary Order shall be
4 inadmissible in any legal action between the parties and the board shall not be disqualified from
5 further action by having considered this matter.

6 12. The parties agree that facsimile copies of this Stipulated Settlement and
7 Disciplinary Order, including facsimile signatures on it, shall have the same force and effect as
8 the original Stipulated Settlement and Disciplinary Order and signatures.

9 13. In consideration of the foregoing admissions and stipulations, the parties
10 agree that the board shall, without further notice or formal proceeding, issue and enter the
11 following Disciplinary Order:

12 **DISCIPLINARY ORDER**

13 **IT IS HEREBY ORDERED** that Psychologist's License Number PSY 10152
14 issued to respondent Patricia E. McKeon, Ph.D. is revoked. However, the revocation is stayed
15 and respondent is placed on probation for five (5) years on the following terms and conditions.

16 14. **PSYCHOLOGICAL EVALUATION** Within 90 days of the effective
17 date of the Decision and on a periodic basis thereafter, as may be required by the board or its
18 designee, respondent shall undergo a psychological evaluation (and psychological testing, if
19 deemed necessary) by a board-appointed California-licensed psychologist. Respondent shall sign
20 a release that authorizes the evaluator to furnish the board a current DSM IV diagnosis and a
21 written report regarding respondent's judgment and/or ability to function independently as a
22 psychologist with safety to the public and whatever other information the board deems relevant
23 to the case. The completed evaluation is the sole property of the board. The evaluation should
24 not be disclosed to anyone not authorized by the board or by court order.

25 If ongoing psychotherapy is recommended in the psychological evaluation, the
26 board will notify respondent in writing to submit to such therapy and to select a psychotherapist
27 for approval by the board or its designee within 30 days of such notification. The therapist shall
28 1) be a California-licensed psychologist with a clear and current license; 2) have no previous

1 business, professional, personal, or other relationship with respondent; 3) not be the same person
2 as respondent's practice monitor. Frequency of psychotherapy shall be determined upon
3 recommendation of the treating psychotherapist with approval by the board or its designee;
4 however, psychotherapy shall, at a minimum, consist of one one-hour session per week.
5 Respondent shall continue psychotherapy until released by the approved psychologist and
6 approved by the board or its designee. The board or its designee may order a re-evaluation upon
7 receipt of the therapist's recommendation.

8 Respondent shall execute a release authorizing the therapist to provide to the
9 board any information the board or its designee deems appropriate including quarterly reports of
10 respondent's therapeutic progress. Respondent shall furnish a copy of this Decision to the
11 therapist. If the therapist determines that the respondent cannot continue to independently render
12 psychological services, with safety to the public, he or she shall notify the board immediately.

13 Respondent shall pay all costs associated with the psychological evaluation and
14 ongoing psychotherapy. Failure to pay costs will be considered a violation of the probation
15 order.

16 15. **PRACTICE MONITOR** Within 90 days of the effective date of this
17 Decision, respondent shall submit to the board or its designee for prior approval, the name and
18 qualifications of a psychologist who has agreed to serve as a practice monitor. The monitor shall
19 1) be a California-licensed psychologist with a clear and current license; 2) have no prior
20 business, professional, personal, or other relationship with respondent; and 3) not be the same
21 person as respondent's therapist. The monitor's education and experience shall be in the same
22 field of practice as that of respondent.

23 Once approved, the monitor shall submit to the board or its designee a plan by
24 which respondent's practice shall be monitored. Monitoring shall consist of at least one hour per
25 week of individual face to face meetings and shall continue during the entire probationary period.
26 Respondent shall provide the monitor with a copy of this Decision and access to respondent's
27 patient records. Respondent shall obtain any necessary patient releases to enable the monitor to
28 review records and to make direct contact with patients. Respondent shall execute a release

1 authorizing the monitor to divulge any information that the board may request. It shall be
2 respondent's responsibility to ensure that the monitor submits written reports to the board or its
3 designee on a quarterly basis verifying that monitoring has taken place and providing an
4 evaluation of respondent's performance.

5 Respondent shall notify all current and potential patients of any term or condition
6 of probation that will affect their therapy or the confidentiality of their records (such as this
7 condition, which requires a practice monitor). Such notifications shall be signed by each patient
8 prior to continuing or commencing treatment.

9 If the monitor quits or is otherwise no longer available, respondent shall get
10 approval from the board for a new monitor within 30 days. If no new monitor is approved within
11 30 days, respondent shall not practice until a new monitor has been approved by the board or its
12 designee. During this period of non-practice, probation will be tolled and will not commence
13 again until the period of non-practice is completed. Respondent shall pay all costs associated
14 with this monitoring requirement. Failure to pay these costs shall be considered a violation of
15 probation.

16 16. **NOTIFICATION TO EMPLOYER** Respondent shall provide each of
17 her employers, where respondent is providing psychological services, a copy of this Decision and
18 the Accusation before commencing employment. Notification to respondent's current
19 employer(s) shall occur no later than the effective date of the Decision. Respondent shall submit,
20 upon request by the board or its designee, satisfactory evidence of compliance with this term of
21 probation.

22 17. **RESTITUTION** Within 90 days of the effective date of this Decision,
23 respondent shall provide proof to the board or its designee that she has provided to the family of
24 P-1 all patient or client records relating to P-1 and, at the family's election, either provided the
25 family with the report evaluating P-1 for which they paid respondent \$744.00 or made restitution
26 to the family of the \$744.00. In addition, respondent shall provide proof to the board or its
27 designee that she has provided to MH all patient or client records relating to him and the report
28 of the neuropsychiatric testing for which he contracted with respondent. Failure to comply with

1 these conditions shall be considered a violation of probation. These conditions must be met
2 whether or not probation has been tolled.

3 18. **PAYMENT OF ADMINISTRATIVE FINE** Within 30 days of the
4 effective date of this Decision, respondent shall pay the administrative fine of \$2,500.00 assessed
5 by the board's Citation No. 2003-10-2003. The administrative fine shall be payable to the Board
6 of Psychology and is to be paid regardless of whether the probation is tolled. Failure to pay the
7 administrative fine shall be considered a violation of probation.

8 19. **COURSEWORK** Respondent shall take and successfully complete not
9 less than 12 hours of coursework each year of probation in the following areas: Laws and Ethics
10 and Recordkeeping. Coursework must be pre-approved by the board or its designee. All
11 coursework shall be taken at the graduate level at an accredited educational institution or shall be
12 provided by an approved continuing education provider. Classroom attendance is specifically
13 required; correspondence or home study coursework shall not count toward meeting this
14 requirement. The coursework must be in addition to any continuing education courses that may
15 be required for license renewal.

16 Within 90 days of the effective date of this Decision, respondent shall submit to
17 the board or its designee for prior approval a plan for meeting the educational requirements. All
18 costs of the coursework shall be paid by respondent.

19 20. **ETHICS COURSE** Within 90 days of the effective date of this
20 Decision, respondent shall submit to the board or its designee for prior approval a course in laws
21 and ethics as they relate to the practice of psychology. This course must be successfully
22 completed at an accredited educational institution or through a provider approved by the board's
23 accreditation agency for continuing education credit. This course must be taken and completed
24 within one year from the effective date of this Decision. This course must be in addition to the
25 laws and ethics courses required by Paragraph 14, above, and in addition to any continuing
26 education courses that may be required for license renewal. The cost associated with the laws
27 and ethics course shall be paid by respondent.

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1 21. **INVESTIGATION/ENFORCEMENT COST RECOVERY**

2 Respondent shall pay to the board its costs of investigation and enforcement in the amount of
3 \$3,801.50 within the first year of probation. Such costs shall be payable to the Board of
4 Psychology and are to be paid regardless of whether the probation is tolled. Failure to pay such
5 costs shall be considered a violation of probation.

6 The filing of bankruptcy by respondent shall not relieve her of the responsibility to
7 repay investigation and enforcement costs.

8 22. **PROBATION COSTS** Respondent shall pay the costs associated with
9 probation monitoring each and every year of probation. Such costs shall be payable to the Board
10 of Psychology at the end of each fiscal year (June 30). Failure to pay such costs shall be
11 considered a violation of probation. The filing of bankruptcy by respondent shall not relieve her
12 of the responsibility to repay probation monitoring costs.

13 23. **OBEY ALL LAWS** Respondent shall obey all federal, state, and local
14 laws and all regulations governing the practice of psychology in California including the ethical
15 guidelines of the American Psychological Association. A full and detailed account of any and all
16 violations of law shall be reported by respondent to the board or its designee in writing within
17 seventy-two (72) hours of occurrence.

18 24. **QUARTERLY REPORTS** Respondent shall submit quarterly
19 declarations under penalty of perjury on forms provided by the board or its designee, stating
20 whether there has been compliance with all conditions of probation. Quarterly reports attesting
21 to non-practice status are to be submitted if probation is tolled.

22 25. **PROBATION COMPLIANCE** Respondent shall comply with the
23 board's probation program and shall, upon reasonable notice, report to the assigned Board of
24 Psychology probation monitor. Respondent shall contact the assigned probation monitor
25 regarding any questions specific to the probation order. Respondent shall not have any
26 unsolicited or unapproved contact with 1) complainants associated with the case; 2) board
27 members or members of its staff; or 3) persons serving the board as expert evaluators.

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1 26. **INTERVIEW WITH BOARD OR ITS DESIGNEE** Respondent shall
2 appear in person for interviews with the board or its designee upon request at various intervals
3 and with reasonable notice.

4 27. **CHANGES OF EMPLOYMENT** Respondent shall notify the board in
5 writing, through the assigned probation monitor, of any and all changes of employment, location,
6 and address within 30 days of such change.

7 28. **TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE**
8 **AND IN-STATE NON-PRACTICE** In the event respondent should leave California to reside
9 or to practice outside the State or if, for any reason, respondent should stop practicing psychology
10 in California, she shall notify the board or its designee in writing within ten days of the dates of
11 departure and return or the dates of non-practice within California. Non-practice is defined as
12 any period of time exceeding thirty days in which respondent is not engaging in any activities
13 defined in Sections 2902 and 2903 of the Business and professions Code. During periods of non-
14 practice, the probationary period is tolled and respondent's license or registration shall be placed
15 on inactive status. The probationary period will not commence again until respondent activates
16 her license and resumes practicing psychology in the state of California. However, the board
17 may require respondent to complete certain terms of probation that are not associated with active
18 practice and respondent will be required to pay cost recovery and restitution as ordered.

19 29. **EMPLOYMENT AND SUPERVISION OF TRAINEES** Respondent
20 shall not employ or supervise or apply to employ or supervise psychological assistants, interns, or
21 trainees during the course of this probation. Any such supervisorial relationship in existence on
22 the effective date of this probation shall be terminated by respondent and/or the board.

23 30. **VIOLATION OF PROBATION** If respondent violates probation in any
24 respect, the board may, after giving her notice and the opportunity to be heard, revoke probation
25 and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke
26 Probation is filed against respondent during probation, the board shall have continuing
27 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
28 is final. No Petition for Modification or Termination of Probation shall be considered while

1 there is an Accusation or Petition to Revoke Probation pending against respondent.

2 31. **COMPLETION OF PROBATION** Upon successful completion of
3 probation, respondent's license shall be fully restored.

4 **ACCEPTANCE**

5 I, Patricia E. McKeon, Ph.D. have carefully read the above Stipulated Settlement
6 and Disciplinary Order and have fully discussed the terms and conditions and other matters
7 contained therein with my attorney John L. Fleer. I enter into the stipulation freely and
8 voluntarily and with full knowledge of its force and effect.

9 DATED: 5/31/05

10 
11 PATRICIA E. McKEON, Ph.D.
12 Respondent

13 I have read and fully discussed with respondent Patricia E. McKeon, Ph.D. the
14 terms and conditions and other matters contained in the above Stipulated Settlement and
15 Disciplinary Order. I approve its form and content.

16 DATED: 5/31/05

17 
18 JOHN L. FLEER
19 Attorney for Respondent

20 **ENDORSEMENT**

21 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
22 submitted for consideration by the California Board of Psychology of the Department of
23 Consumer Affairs.

24 DATED: June 22, 2005

25 BILL LOCKYER, Attorney General
26 of the State of California

27 
28 KERRY WEISEL
Deputy Attorney General

Attorneys for Complainant

Exhibit A:
Accusation Case No. W276

1 BILL LOCKYER, Attorney General
of the State of California
2 KERRY WEISEL, State Bar No. 127522
Deputy Attorney General
3 California Department of Justice
1515 Clay Street, Suite 2000
4 Post Office Box 70550
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6 Attorneys for Complainant

FILED
STATE OF CALIFORNIA
BOARD OF PSYCHOLOGY
SACRAMENTO April 29 2004
BY M. Jackson ANALYST

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9 **BEFORE THE**
BOARD OF PSYCHOLOGY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. W276

12 PATRICIA E. McKEON, Ph.D.
13 860 Congress Avenue
Pacific Grove, California 93950

ACCUSATION

14 Psychologist's License Number PSY 10152

15 Respondent.

16
17 The Complainant alleges:

18 **PARTIES**

19 1. Complainant, Thomas S. O'Connor, is the Executive Officer of the
20 California Board of Psychology ("Board of Psychology" or "board") and brings this accusation
21 solely in his official capacity.

22 2. At all times material, respondent Patricia E. McKeon, Ph.D.
23 ("respondent") has held Psychologist's License No. PSY 10152 which the board issued to her on
24 July 16, 1987. Unless renewed, the license will expire on June 30, 2005.

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JURISDICTION

3. This accusation is brought before the Board of Psychology, Department of Consumer Affairs, under the authority of the following sections of the California Business and Professions Code ("Code") and other authorities listed.

4. Section 125.9 of the Business and Professions Code provides that the Board of Psychology "may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board . . . where the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto. . . . Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board"

5. Title 16 California Code of Regulations section 1397.50 provides that the board may issue a citation for a violation of certain specified statutes, that the citation shall be in writing and shall describe with particularity the nature and facts of the violation, and that the citation shall be served personally or by certified mail, return receipt requested.

6. Title 16 California Code of Regulations section 1397.52 provides that "[w]hen an order of abatement is not contested . . . failure to abate the violation charged within the time allowed shall constitute a violation and failure to comply with the order of abatement. . . . Such failure may result in disciplinary action being taken by the Board of Psychology or other appropriate judicial relief being taken against the person cited."

7. Section 2960 of the Business and Professions Code provides that the Psychology Board may suspend, revoke, or place on probation a licensee for unprofessional conduct which includes, but is not limited to, several enumerated causes including the following:

"(j) Being grossly negligent in the practice of his or her profession.

"(k) Violating any of the provisions of [Chapter 6.6 of Division 2 of the Business and Professions Code] or regulations duly adopted thereunder."

8. Health and Safety Code section 123110 provides, in pertinent part,

"(b) [A]ny patient or patient's representative shall be entitled to copies of all or any

1 portion of the patient records that he or she has a right to inspect, upon presenting a
2 written request to the health care provider specifying the records to be copied, together
3 with a fee to defray the cost of copying The health care provider shall ensure that
4 the copies are transmitted within 15 days after receiving the written request.

5 “....

6 “(i) Any [licensed psychologist] who willfully violates this chapter is guilty of
7 unprofessional conduct. . . . The state agency, board, or commission that issued the
8 health care provider’s professional or institutional license shall consider a violation as
9 grounds for disciplinary action with respect to the licensure, including suspension or
10 revocation of the license or certificate.”

11 9. Section 2936 of the Business and Professions Code provides that “[t]he
12 board shall establish as its standards of ethical conduct relating to the practice of psychology, the
13 code of ethics adopted and published by the American Psychological Association (APA). Those
14 standards shall be applied by the board as the accepted standard of care in all licensing
15 examination development and in all board enforcement policies and disciplinary case
16 evaluations.”

17 10. American Psychological Association. (1992) Ethical principles of
18 psychologists and code of conduct, Ethical Standard 1.13, Personal Problems and Conflicts,
19 states:

20 “(a) Psychologists recognize that their personal problems and conflicts may
21 interfere with their effectiveness. Accordingly, they refrain from undertaking an activity
22 when they know or should know that their personal problems are likely to lead to harm to
23 a patient, client, colleague, student, research participant, or other person to whom they
24 may owe a professional or scientific obligation.

25 “(b) In addition, psychologists have an obligation to be alert to signs of, and to
26 obtain assistance for, their personal problems at an early stage, in order to prevent
27 significantly impaired performance.

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1 “(c) When psychologists become aware of personal problems that may interfere
2 with their performing work-related duties adequately, they take appropriate measures,
3 such as obtaining professional consultation or assistance, and determine whether they
4 should limit, suspend, or terminate their work-related duties.”

5 11. American Psychological Association. (1992) Ethical principles of
6 psychologists and code of conduct, Ethical Standard 1.07, Describing the Nature and Results of
7 Psychological Services, states, in pertinent part, that “[w]hen psychologists provide assessment,
8 evaluation, . . . or other psychological services to an individual . . . they provide, using language
9 that is reasonably understandable to the recipient of those services, appropriate information
10 beforehand about the nature of such services and appropriate information later about results and
11 conclusions.”

12 12. American Psychological Association. (1992) Ethical principles of
13 psychologists and code of conduct, Ethical Standard 1.14, Avoiding Harm, states that
14 “[p]sychologists take reasonable steps to avoid harming their patients or clients, research
15 participants, students, and others with whom they work, and to minimize harm where it is
16 foreseeable and unavoidable.”

17 13. American Psychological Association. (1992) Ethical principles of
18 psychologists and code of conduct, Ethical Standard 1.24, Records and Data, states that
19 [p]sychologists create, maintain, disseminate, store, retain, and dispose of records and data
20 relating to their research, practice, and other work in accordance with law and in a manner that
21 permits compliance with the requirements of this Ethics Code.”

22 14. American Psychological Association. (1992) Ethical principles of
23 psychologists and code of conduct, Ethical Standard 5.10, Ownership of Records and Data,
24 states:

25 “Recognizing that ownership of records and data is governed by legal principles,
26 psychologists take reasonable and lawful steps so that records and data remain available
27 to the extent needed to serve the best interests of patients, individual or organizational
28 clients, research participants, or appropriate others.”

1 15. American Psychological Association. (2002) (Effective June 1, 2003.)
2 Ethical principles of psychologists and code of conduct, Ethical Standard 2.06, Personal
3 Problems and Conflicts, states:

4 “(a) Psychologists refrain from initiating an activity when they know or should
5 know that there is a substantial likelihood that their personal problems will prevent them
6 from performing their work-related activities in a competent manner.

7 “(b) When psychologists become aware of personal problems that may interfere
8 with their performing work-related duties adequately, they take appropriate measures,
9 such as obtaining professional consultation or assistance, and determine whether they
10 should limit, suspend, or terminate their work-related duties.”

11 16. American Psychological Association. (2002) (Effective June 1, 2003.)
12 Ethical principles of psychologists and code of conduct, Ethical Standard 3.04, Avoiding Harm,
13 states that “[p]sychologists take reasonable steps to avoid harming their clients/patients, students,
14 supervisees, research participants, organizational clients, and others with whom they work, and
15 to minimize harm where it is foreseeable and unavoidable.”

16 17. American Psychological Association. (2002) (Effective June 1, 2003.)
17 Ethical principles of psychologists and code of conduct, Ethical Standard 3.12, Interruption of
18 Psychological Services, states:

19 “Unless otherwise covered by contract, psychologists make reasonable efforts to plan for
20 facilitating services in the event that psychological services are interrupted by factors
21 such as the psychologist’s illness, death, unavailability, relocation, or retirement or by the
22 client’s/patient’s relocation or financial limitations.”

23 18. American Psychological Association. (2002) (Effective June 1, 2003.)
24 Ethical principles of psychologists and code of conduct, Ethical Standard 6.01 Documentation of
25 Professional and Scientific Work and Maintenance of Records, states:

26 “Psychologists create, and to the extent the records are under their control, maintain,
27 disseminate, store, retain, and dispose of records and data relating to their professional
28 and scientific work in order to (1) facilitate provision of services later by them or by other

professionals, (2) allow for replication of research design and analyses, (3) meet institutional requirements, (4) ensure accuracy of billing and payments, and (5) ensure compliance with law.”

19. American Psychological Association. (2002) (Effective June 1, 2003.) Ethical principles of psychologists and code of conduct, Ethical Standard 9.04, Release of Test Data, states:

“(a) The term *test data* refers to raw and scaled scores, client/patient responses to test questions or stimuli, and psychologists’ notes and recordings concerning client/patient statements and behavior during an examination. Those portions of test materials that include client/patient responses are included in the definition of *test data*. Pursuant to a client/patient release, psychologists provide test data to the client/patient or other persons identified in the release. Psychologists may refrain from releasing test data to protect a client/patient or others from substantial harm or misuse or misrepresentation of the data or the test, recognizing that in many instances release of confidential information under these circumstances is regulated by law.

“(b) In the absence of a client/patient release, psychologists provide test data only as required by law or court order.”

FACTS

20. Patient P-1,¹ was 15 years old in the fall of 2001. She had learning problems which had been identified by testing done in elementary school and which were reflected in her schoolwork and her parents wanted a report to convince her school to accommodate her learning needs. P-1's parents contracted with Dr. McKeon to perform neuropsychological testing on P-1 and to prepare a written report for her school.

21. Dr. McKeon met with P-1 to evaluate her on November 27, 2001, December 11, 2001, two or three times in the spring of 2002, and, one last time, in July 2002.

1. The patient is referred to as P-1 in this document to protect her privacy. Respondent knows who P-1 is and may confirm her identity through discovery.

1 22. P-1's parents were billed \$744.00 for the two sessions in 2001 and paid
2 that amount in full.

3 23. Dr. McKeon did not provide a report of her evaluation either to P-1's
4 parents or to her school.

5 24. P-1's parents made numerous telephone calls to and left messages at both
6 of Dr. McKeon's office numbers, her cell phone, and her pager and left a note at her office in an
7 attempt to get Dr. McKeon to provide the report. Except for one voice mail message, Dr.
8 McKeon did not respond. Finally, on December 12, 2002, they wrote Dr. McKeon a letter
9 advising her that they were considering filing a formal complaint with the board if she did not
10 provide the written report.

11 25. Dr. McKeon did not provide P-1's parents with the report and did not
12 contact P-1's parents

13 26. In the absence of a written report or evaluation offering a basis for
14 modifying P-1's learning environment, P-1's school has not made adjustments to accommodate
15 her learning needs.

16 27. P-1's parents filed a formal complaint with the Board of Psychology on
17 April 3, 2003.

18 28. On August 21, 2003, after reviewing the complaint, the board sent a letter
19 to Dr. McKeon asking her to respond to the allegations against her.

20 29. Dr. McKeon did not respond and the board sent a second letter to her on
21 October 2, 2003. Again, Dr. McKeon did not respond.

22 30. Board personnel left recorded messages at both of Dr. McKeon's office
23 phone numbers on October 3, 6, 9, and 15, 2003. A final fax was sent to Dr. McKeon on
24 October 9, 2003 advising her that if she failed to respond, the board would seek to discipline her
25 license to practice psychology or issue a citation and fine.

26 31. On October 28, 2003, the board issued Citation No. 2003-10-2003 against
27 Dr. McKeon ordering her to provide P-1's parents and/or P-1's school the results of her
28 evaluation of P-1 immediately and to pay the board an administrative fine in the amount of

1 \$2500.00 within thirty days of the citation. The Citation Order was sent to Dr. McKeon by
2 certified mail to her address of record.

3 32. Dr. McKeon has not contacted the board concerning the citation, appealed
4 the citation, or otherwise responded to the citation. She has not provided the results of her
5 evaluation of P-1 to P-1's parents or to P-1's school and she has not paid the administrative fine
6 to the board.

7 33. This is not the first time that Dr. McKeon has failed to provide a written
8 report of her evaluation of a client/patient upon the client/patient's request. The board issued
9 Citation No. 2003-03-0197 against Dr. McKeon on March 18, 2003 for her failure to provide
10 requested medical records and evaluation report to a client/patient and/or to her doctors.

11 **FIRST CAUSE FOR DISCIPLINARY ACTION**

12 (Gross Negligence, Failure to Provide Patient Records, Violation of APA Code of Ethics)

13 34. Respondent is subject to disciplinary action pursuant to Business and
14 Professions Code sections 2960, subsections (j) (gross negligence) and (k) (violating laws and/or
15 regulations governing the practice of psychology), and 2936 (violation of APA Code of Ethics);
16 Health and Safety Code section 123110 (failure to provide patient records); the Ethical Principles
17 of Psychologists and Code of Conduct (1992), Ethical Standards 1.07 (describing the nature and
18 results of psychological services), 1.13 (personal problems and conflicts), 1.14 (avoiding harm),
19 1.24 (records and data), and 5.10 (ownership of records and data); and the Ethical Principles of
20 Psychologists and Code of Conduct (2002) (effective June 1, 2003), Ethical Standards 2.06
21 (personal problems and conflicts), 3.04 (avoiding harm), 3.12 (interruption of psychological
22 services), 6.01 (documentation of professional and scientific work and maintenance of records),
23 and 9.04 (release of test data), in that she failed to provide a report of P-1's evaluation either to
24 her parents or her school as she had contracted to do and which P-1's parents expressly requested
25 that she do which resulted in the school's failing to accommodate P-1's learning needs.

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